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| 09/845,826      | 04/30/2001  | Todd Ham             | GCSD-1126 (51209)   | 2299             |

7590 03/22/2005

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| EXAMINER |
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GRAYSAY, TAMARA L

| ART UNIT | PAPER NUMBER |
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3623

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/845,826

Applicant(s)

HAM ET AL.

Examiner

Tamara L. Graysay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1 page.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: a detailed description of Block 16 and Block 21 (FIG. 2). Although Block 16 is mentioned at page 8, reads that Block 16 may be bypassed, but the detailed description (pages 9-10) does not describe Block 16.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claims 4, 14, 31, and 41 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

NOTE: The test for a proper dependent claim under the fourth paragraph of 35 U.S.C. 112 is whether the dependent claim includes every limitation of the claim from which it depends. See MPEP § 608.01(n), II.

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a. Regarding claims 4 and 14, the process step of bypassing has omitted at least the fourth step, "requiring the prospective laborer to demonstrate receipt of the project training via the Internet to be a contract laborer." Further, the claim is somewhat confusing because the recitation of "demonstration mastery" is not set forth in claim 1 or 11, but rather claims 3 and 13, which recite "requiring ... an examination to 'demonstrate mastery' of the project training."

b. Regarding claims 31 and 41, the system or apparatus claims omit limitation(s) of the claims from which they depend including the host system "requiring the prospective laborer to demonstrate receipt of the project training via the Internet to be a contract laborer." Further, the claim is somewhat confusing because the recitation of "demonstration mastery" is not set forth in claims 28 or 38, but rather claims 30 and 40, which recite "requires ... an examination to 'demonstrate mastery' of the project training."

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4, 10, 11, 13, 14, 21, 22, 27, 28, 30, 31, 37, 38, 40, 41, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrington (article The RFP process: how to hire a third party) in view of Simon (article, Work: management: elance is the new freelance: an

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electronic exchange makes the global marketplace a reality) and Cole-Gomolski (article, Match people, jobs faster: software tracks skills, training of in-house staff and contractors).

- a. Regarding claims 1, 3, 4, and 10, Harrington discloses a method for arranging for labor including: preparing a project description, receiving a request for proposal (bid / response), transmitting the project to the laborer (provider), and receiving a completed project from the laborer (performance measurement systems). It is implicit in any method for arranging for labor related to a project that a completed project is to be received from the laborer by the buyer.

Simon teaches a method for arranging temporary project labor comprising: posting a project description on the Internet (P.1, L.21-22); receiving a request via the Internet from a prospective laborer (provider) to be considered for the project (P.1, L.22); transmitting a project package to the contract laborer via the Internet (e.g., providers all over the world, P.1, L.20-33); and, receiving a completed project package from the contract laborer via the Internet. Such an arrangement allows a company to become bigger, by outsourcing, and keep the permanent staff smaller, thus reducing administrative costs. Simon teaches arranging temporary labor for a project comprising writing a speech (P.1, L.22; P.2, L.3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Harrington to include the steps of transmitting a project via the Internet and receiving a completed project via the Internet, such as suggested by Simon, in order to allow a company to become bigger, by outsourcing, and keep the permanent staff smaller, thus reducing administrative costs of the company.

Cole-Gomolski teaches making training available, as broadly recited, and a prospective laborer demonstrating receipt of training insofar as it includes tracking employee and contractor training (P.40, C.4, ¶.4) and examination results (test results, P.40, C.5, L.4-6) via the Internet in order to fill jobs faster.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Harrington and Simon combination to include making project training available to the prospective laborer, and requiring a laborer (contractor) to demonstrate receipt of training by making training information available over the Internet, such as taught by Cole-Gomolski, in order to fill jobs faster.

b. Regarding claims 11, 13, 14, and 21, the examiner notes that the above combination of Harrington, Simon, and Cole-Gomolski, as applied to claims 1, 3, 4, and 10, includes all of the features recited in claims 11, 13, 14, and 21, including payment based upon receiving the completed project insofar as Cole-Gomolski teaches tracking payroll information (P.40, C.5, L.4-6). However, the combination lacks authorization of electronic payment.

It was known at the time of the invention that merely providing an automatic means to replace a manual activity that accomplishes the same result is not sufficient to distinguish over the prior art. In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). For example, simply automating the step of authorizing electronic payment gives one just what one would expect from the manual step of paying a laborer (provider). In other words there is no enhancement found in the claimed step. The claimed authorizing

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step only provides automating the manual activity. The end result is the same as compared to the manual method; however, a computer can simply track the payroll information faster.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include authorizing electronic payment because this would speed up the process of paying laborers, which is purely known and disclosed in the Harrington, Simon, and Cole-Gomolski combination, and the same result is obtained from automation of that which is already known in the art.

c. Regarding claims 22 and 27, Harrington discloses a method for arranging for labor including: preparing a project description, receiving a request for proposal (bid / response), transmitting the project to the laborer (provider), and receiving a completed project from the laborer (performance measurement systems). It is implicit in any method for arranging for labor related to a project that a completed project is to be received from the laborer by the buyer.

Simon teaches a method for arranging temporary project labor comprising: posting a project description on the Internet (P.1, L.21-22); receiving a request via the Internet from a prospective laborer (provider) to be considered for the project (P.1, L.22); transmitting a project package to the contract laborer via the Internet (e.g., providers all over the world, P.1, L.20-33); and, receiving a completed project package from the contract laborer via the Internet. Such an arrangement allows a company to become bigger, by outsourcing, and keep the permanent staff smaller, thus reducing

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administrative costs. Simon teaches arranging temporary labor for a project comprising writing a speech (P.1, L.22; P.2, L.3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Harrington to include the steps of transmitting a project via the Internet and receiving a completed project via the Internet, such as suggested by Simon, in order to allow a company to become bigger, by outsourcing, and keep the permanent staff smaller, thus reducing administrative costs of the company.

Cole-Gomolski teaches making training available, as broadly recited, insofar as it includes tracking employee and contractor training (P.40, C.4, ¶.4) via the Internet in order to fill jobs faster.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Harrington and Simon combination to include making project training available to the prospective laborer over the Internet, such as taught by Cole-Gomolski, in order to fill jobs faster.

Further, it was known at the time of the invention that merely providing an automatic means to replace a manual activity that accomplishes the same result is not sufficient to distinguish over the prior art. In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). For example, simply automating the step of authorizing electronic payment gives one just what one would expect from the manual step of paying a laborer (provider). In other words there is no enhancement found in the claimed step. The claimed authorizing step only provides automating the manual activity. The end result is



the same as compared to the manual method; however, a computer can simply track the payroll information faster.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include authorizing electronic payment because this would speed up the process of paying laborers, which is purely known and disclosed in the Harrington, Simon, and Cole-Gomolski combination, and the same result is obtained from automation of that which is already known in the art.

d. Regarding claims 28, 38, and the dependent claims, the preamble recites a “system” [for arranging temporary project labor] [using the Internet] comprising a host system [connected to the Internet and storing information]. The specification discloses the host system 31 as a “system” and nothing more, i.e., no specific computer hardware and/or software; and the host system depicted in Figure 1 is simply a black box. However, Figure 1 shows the host system 31 connected to the Internet backbone 34 via an Internet service provider 32. The claims include various functions intended to be performed via the Internet, e.g., transmitting the package via the Internet, and receiving a completed package via the Internet, through an Internet service provider and Internet backbone. Therefore, the claims have been interpreted as a computer system including computer hardware and software.

e. Further regarding claims 28, 30, 31, 37, 38, 40, 41, and 48, the system for arranging using the Internet, is met insofar as the combination, as discussed above with

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regard to claims 1, 3, 4, 10, 11, 13, 14, and 21, comprises a computer system including computer hardware and software.

4. Claims 2, 12, 29, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrington (article The RFP process: how to hire a third party), Simon (article, Work: management: elance is the new freelance: an electronic exchange makes the global marketplace a reality), and Cole-Gomolski (article, Match people, jobs faster: software tracks skills, training of in-house staff and contractors) as applied to claims 1 and 11, above, and further in view of Mann (article, The Internet can help meet employment challenges).

a. Regarding claims 2 and 12, the combination lacks making project training available via the Internet.

Mann (article, The Internet can help meet employment challenges) teaches an employer offering specialized Internet training for a laborer in the specialized field in order to include the Internet to resolve staffing challenges and to generate business.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination to include specialized Internet training offered by the employer, such as taught by Mann, in order to resolve staffing challenges and to generate business.

b. Regarding claims 29 and 39, the system for arranging using the Internet, is met insofar as the combination, as discussed above with regard to claims 2 and 12, comprises a computer system including computer hardware and software.

5. Claims 5-7, 15-18, 23, 24, 32-34, and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrington (article The RFP process: how to hire a third party), Simon (article, Work: management: elance is the new freelance: an electronic exchange makes the global marketplace a reality), and Cole-Gomolski (article, Match people, jobs faster: software tracks skills, training of in-house staff and contractors) as applied to claim 1, 11, and 22, above, and further in view of Loveland (US-6810383).

a. Regarding claims 5, 6, 15, 17, and 23, Loveland (US-6810383) teaches verifying a completed project's compliance with quality standards, and denying project assignment when a laborer (service provider) has received poor quality ratings or complaints (C.15, L.38-45) in order to assign a project only to providers that have been pre-approved as qualified to complete the project.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Harrington, Simon, and Cole-Gomolski combination to include verifying a completed project's compliance with quality standards, and denying project assignment when a laborer has received poor quality ratings, such as taught by Loveland, in order to assign projects only to those laborers which have been pre-approved as qualified to complete the project.

b. Regarding claims 7, 18, and 24, Loveland (US-6810383) teaches re-posting (transferred or reassigned, C.1, L.24-28, C.9, L.4-10) a project when a response is

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unacceptable or the laborer fails to comply with system rules (specified time period for example, C.9, L.4-10) in order to avoid a project that is incomplete or untimely.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Harrington, Simon, and Cole-Gomolski combination to include re-posting a project when a response is not received within a predetermined period, such as taught by Loveland, in order to avoid a project that is incomplete or untimely.

c. Regarding claim 16, the combination is silent as to the step of authorizing payment after verifying that a quality standard has been met.

At the time of the invention, it was a well-known business principle that payment for goods and services was made upon receipt of goods or services that met specified quality standard(s). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to include authorizing payment upon receipt of a completed project that complies with quality standard(s).

d. Regarding claims 32-34, and 42-45, the system for arranging using the Internet, is met insofar as the combination, as discussed above with regard to claims 5-7 and 15-18, comprises a computer system including computer hardware and software.

6. Claims 8, 9, 19, 20, 25, 26, 35, 36, 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrington (article The RFP process: how to hire a third party), Simon

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(article, Work: management: elance is the new freelance: an electronic exchange makes the global marketplace a reality), and Cole-Gomolski (article, Match people, jobs faster: software tracks skills, training of in-house staff and contractors) as applied to claims 1, 11, and 22, above, and further in view of Barani (article, Background investigations: how HR stays on the cutting edge).

- a. Regarding claims 8, 9, 19, 20, 25, and 26, Barani (article, Background investigations: how HR stays on the cutting edge) teaches verifying an employee's qualifications, including a criminal background check before hiring a new employee in order to reduce costs associated with and to avoid possible litigation related to past criminal activity of a potential employee.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Harrington, Simon, and Cole-Gomolski combination to verify laborer qualifications including lack of criminal record, such as taught by Barani, in order to reduce costs associated with and to avoid possible litigation related to past criminal activity of a potential employee.

- b. Regarding claims 35, 36, 46 and 47, the system for arranging using the Internet, is met insofar as the combination, as discussed above with regard to claims 8, 9, 19 and 20, comprises a computer system including computer hardware and software.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Arvey (article, Fairness in the selection of employees) teaches fair consideration of an employee's knowledge, skill, abilities, and work experiences; as well as the possibility of unfair consideration of age.
- Anonymous (article, On-line service sparks opportunities) teaches posting a project description (commercial and government bid specifications) on the Internet; receiving a request (bid) via the Internet from a prospective contractor to be considered; and, making training available to the contractor (col.2).
- Cronk (text, Section I.5 – A framework for IS outsourcing strategy in private and public sector contexts) teaches the use of electronic communications to reduce costs when outsourcing.
- Schmitz (article, Working together over ASPs bridge the gap) teaches the use of the Internet to review drawings (P.30, C.1, ¶.2); iterate on designs (P.30, C.1, ¶.2); and, producing, reviewing, and delivering engineering plots over the Internet thus eliminating document shipping costs and time delays (P.34, C.3, ¶.3).
- elance.com (webpage, Home page) teaches an Internet market for getting services and providing services in various categories.
- Lam (article, Decision support system for contractor pre-qualification - artificial neural network model) teaches a bidder pre-qualification, which includes disqualifying an entity requesting to be considered for a project, process rule – if a bidder's past performance is

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poor quality, then the bidder is disqualified, i.e., denying request to be considered for the project, in order to avoid another poor performance.

- Lauffer (US-6801899) teaches an online employment market where a company offers tests and transmits results to a server in order to maintain the status of a potential laborer. Further, Lauffer teaches authorizing electronic payment on behalf of the laborer (service provider, expert, cyber payment C.8, L.20-48) via the Internet based on the completed project (per-session payment scheme, C.8, L.20-48) in order to ensure timely project payment at the time of completion of the project.
- Gaur (article, IT-Specific career and service network zeroes in on technology skills crunch) teaches electronic training and assessment, project outsourcing marketplace, and project support.
- Casale (article, The outsourcing institute revolutionizes outsourcing procurement with outsourcing accelerator) teaches an electronic marketplace that comprises posting project description, receiving requests, and tools and resources for project reporting and relationship management. Module 5 includes tracking completion of projects.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (703) 305-1918. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Tamara L. Graysay  
Examiner  
Art Unit 3623

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